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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,011	03/05/2002	Gary L. Shuck	100/12710	7584
21569	7590	03/08/2005	EXAMINER	
CALIPER LIFE SCIENCES, INC. 605 FAIRCHILD DRIVE MOUNTAIN VIEW, CA 94043-2234			NAGPAUL, JYOTI	
		ART UNIT		PAPER NUMBER
				1743

DATE MAILED: 03/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

H

Office Action Summary	Application No.	Applicant(s)
	10/092,011	SHUCK, GARY L.
	Examiner	Art Unit
	Jyoti Nagpaul	1743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-30 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>09/03/2002</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1-3, and 9-24** are rejected under 35 U.S.C. 102(b) as being anticipated by Laugharn (US 6120985).

Laugharn discloses methods and purification of biological materials. The apparatus includes a microfluidic device in a pressure chamber. The apparatus includes a chamber configured to receive the microfluidic device. (Col. 2, Lines 56-58) A vacuum source which is fluidly coupled to the chamber and which is configured to apply a vacuum to the chamber. (Col. 2, Lines 20-25) The device includes at least one microfluidic channel is fluidly connected to an at least one capillary element/conduit. (Col. 2, Lines 28-29) The microfluidic channels are fluidly coupled to one or more micro-reservoirs. (See Figure 2) The method includes applying a vacuum to at least one microfluidic channel (40) of the microfluidic device (25). Laugharn further discloses at least partially filling the at least one microfluidic channel (40) with at least one of a gas or fluid while the at least one microfluidic channel remains under vacuum. (See Figure 2, Col. 9, Lines 65-67) The apparatus further includes means for controlling temperature and pressure. (Col. 2, Lines 13-14) The control means/processor also includes manual or automatic activation means for particular process steps. (Col. 16, Lines 65-67)

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Laugharn discloses many examples and embodiments of the device. In one example, Laugharn discloses partially filling at least one microfluidic channel with a degassed fluid comprising a buffer. (Col. 22, Lines 65-67) In another version, partially filling the at least one microfluidic channel with water. (Col. 23, Lines 18-22) Laungharn also discloses at least partially filling the at least one microfluidic channel with both a gas and a fluid. (Col. 4, Lines 48-50)

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. **Claims 4-8 and 25-30** are rejected under 35 U.S.C. 103(a) as being unpatentable over Laugharn.

Refer above for the teachings of Laungharn.

Laungharn fails to explicitly disclose the various ranges of pressure/vacuum.

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Laugharn discloses control and monitor means for pressure. It is inherent the processor comprises an instruction set for acquiring data from the detector and for controlling filling of the microfluidic device with the gas or the fluid. The device is capable of adjusting to any desired pressure. Thus, it would have been obvious to one of the ordinary skill in the art to modify Laungharn to include the various pressure ranges in order to minimize bubble formation of the microfluidic device and thus create an optimal environment for separation and purification of the biological sample.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jyoti Nagpaul whose telephone number is 571-272-1273. The examiner can normally be reached on Monday thru Friday (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jill Warden
Supervisory Patent Examiner
Technology Center 1700

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